

City of South Portland Boards and Committees Policy

Section 1. Purpose.

The City has many boards, committees and commissions and therefore a lot of persons serving as “public officials.” State law, including the Freedom of Access Act, imposes numerous requirements on the manner in which a local board, committee or commission can conduct its business. Many board/committee members, especially those who serve or have served on nongovernmental boards, are surprised by the restrictions placed on how they, in their capacity as local board/committee members, must conduct board/committee business. The honor and privilege of serving on a City board/committee comes with the added responsibility of learning and complying with the requirements of conducting board/committee business. The individuals who serve on City boards/committees are among the most respected and appreciated volunteers in the community. The City Council wants to ensure that it adequately prepares these individuals for their public roles.

Section 2. Definitions.

Board/Committee means any City board, committee, or commission whose entire membership has been appointed by the City Council, without regard to whether it is a standing or an *ad hoc* board, committee, or commission.

Chair means the presiding officer of a board/committee.

City staff liaison means the City employee who has been assigned to provide logistical support and a line of communication between the board/committee and the City Manager and/or the City Council. All boards/committees have at least one City employee assigned as a liaison. Such liaison is determined by the City Manager, unless otherwise prescribed by ordinance or Council order. Such liaison has the same speaking privileges as board/committee members, unless otherwise prescribed by ordinance or Council order.

Freedom of Access Act or ***FOAA*** means the Maine Freedom of Access Act, codified at 1 M.R.S. §§ 401-411. Its underlying policy is that the City’s business is to be conducted openly, with proper notice and ample opportunity for the public to attend public meetings and the availability of public records for inspection and copying.

Remote means is any form of audio and visual conference technology, or audio conference technology, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and board/committee members.

Remote meeting means a public proceeding, as defined in 1 M.R.S. § 402(2), conducted by remote means.

Social Media is understood to be content created by individuals, using accessible, expandable, and upgradable publishing technologies, through and on the Internet. Examples of social media include Facebook, Twitter, YouTube, Pinterest, LinkedIn, and Instagram.

Section 3. Orientation for New Board/Committee Members

The City Clerk will prepare and make available to every new board/committee member a Guide for New Board/Committee Members to provide a brief overview of each City board/committee and an overview of applicable State laws and City ordinances, policies and protocols. The Guide will be updated periodically as needed. The Guide will include a set of Frequently Asked Questions about the Freedom of Access Act prepared by the Corporation Counsel.

Section 4. Training for New Board/Committee Members.

(a) Effective May 1, 2021, all current and newly appointed officials must complete training on the requirements of Maine's Freedom of Access Act relating to public records and proceedings within 1 month after the official takes the oath of office for newly appointed officials and by July 1, 2021 for officials serving as of April 1, 2021. The training must be designed to be completed in less than 2 hours and include instruction in: the general legal requirements regarding public records and public proceedings; the procedures and requirements regarding complying with a request for a public record; and the penalties and other consequences for failure to comply with the law. Appointed officials can complete the training requirement by conducting a thorough review of the material on the Frequently Asked Question (FAQ) page of the State of Maine's FOAA website (<https://www.maine.gov/foaa/faq/index.shtml>), by watching the recording of the most-recent City-sponsored Freedom of Access Act training, or by completing another training course that includes all of this information but may include additional information. Evidence of completion of this training shall be completing a short test of FOAA comprehension and by filing the certificate of completion with the City Clerk on a form available in the City Clerk's Office.

(b) The City encourages board/committee members to take advantage of training opportunities available through the Maine Municipal Association or other area organizations that address good local boardsmanship or other topics germane to the board/committee members' powers and duties.

Section 5. Scheduling and Providing Notice of Public Meetings.

(a) How to Schedule a Board/Committee Meeting. City boards and committees are required to conduct their business at public meetings that are properly notice to the public in time for the public to be able to attend. In order to schedule a public meeting and give ample notice to the public, meetings must be scheduled by the board/committee Chair (or his/her/their designee) in conjunction with the board/committee's City staff liaison, Meetings

must be scheduled in conjunction with the board/committee's City staff liaison, as the City staff liaison or his/her/their designee must be present at all committee meetings.

(b) Use of BoardDocs for Creating and Publishing Board/Committee Meeting Agenda. The City has contracted with BoardDocs, an agenda management cloud-based platform, to create and publish board/committee agendas. Effective January 31, 2022, all City boards/committees will use BoardDocs to create and publish meeting agendas. All supplemental materials, including meeting minutes, that are distributed to board/committee members shall be added as attachments to the applicable item on the agenda where they will be made available to the public. The City staff liaison in conjunction with the board/committee Chair and/or Secretary will be responsible for publishing the committee agendas through BoardDocs by Friday at 11:00am the week prior to any scheduled meeting. The City Clerk will work with board/committee City staff liaison(s) and board/committee Chairs/Secretaries with the set up and training of BoardDocs for boards/committees.

(c) The Board/Committee Meeting Agenda. The meeting agenda serves as notice to the public that a meeting is happening and an invitation to attend. The agenda must contain the following: Name of the board/committee, time and location where the board/committee is meeting (*if meeting by Zoom, must include the meeting invite information*), and list of topics that will be discussed and possibly decided at the meeting. All supplemental materials that are being distributed to board/committee members shall be added as attachments to the applicable item on the agenda where they will be made available to the public.

(d)

(e) The City's Weekly Calendar. The City Clerk's Office is responsible for posting the weekly meeting list each Friday (by 4:30 pm). This list contains information about all upcoming public meetings for the following week. This list is sent out to the public, to the media, and posted at City Hall and on the City Calendar on the City's website. The City Clerk's office will print an agenda from the list of board/committee meetings published through BoardDocs for posting on the City's website under "Agendas & Minutes" and at City Hall.

In order to give proper public notice, it is required that meeting agendas published by the Friday 11:00am deadline. The public expects this information to be posted by the deadline and the city has a legal obligation to post it in a timely manner. If the board/committee meeting agenda is not published by the Friday 11:00am deadline, the meeting may not be held the following week.

(f) Emergency Meetings. If an urgent matter arises that calls for urgent action, an emergency meeting may be scheduled. If an emergency meeting must be held, notice must be sent to the City Clerk in the form of an agenda *at least 24 hours before* the meeting. It is not acceptable to schedule an "emergency meeting" due to missing the Friday agenda deadline. Effective January 31, 2022, the agenda must be published through BoardDocs, along with any applicable materials,

at least 24 hours before the meeting.

(g) Remote Meetings. The conduct of meetings via remote means shall be in accordance with Maine law and the City's Remote Meeting Policy.

(h) Minutes. City boards and committees are required to, and are responsible for, recording written minutes that capture the date, time, place of meeting; a record of who was present or absent of the members of the board/committee; and a record of all motions made and votes taken (and who made what motion) by the board/committee. The audio or video recording required under subsection (g) below does not serve as the board/committee meeting minutes.

(i) Recording of Meetings. Board/committee meetings shall be recorded by audio or video recording technology, and the board/committee shall make the recording of the meeting electronically available to the City staff liaison and for public access as soon as practicable after the meeting.

Section 6. Public Records.

All board/committee documents, drafts, agendas, minutes, notes, electronic communications and materials relating to the board/committee business are subject to Maine's public records disclosure law, the Freedom of Access Act, as may be amended. Board/committee members are responsible for responding completely and accurately to any request for public records, with assistance, if necessary, from the City's Public Access Officer. Records related to City business shall be maintained in an accessible format and so that they can be produced in response to a FOAA request.

Section 7. Record Retention.

Maine's record retention law, 5 M.R.S. § 95-B, as may be amended, and relevant record retention schedules apply to all board/committee documents, drafts, agendas, minutes, notes, electronic communications and materials relating to the board/committee. The board or committee shall preserve records required to be maintained pursuant to a relevant records retention schedule for the required retention period in a format that preserves the integrity of the original record and is easily accessible.

City boards and committees are required to and are responsible for recording minutes that capture the actions taken by the board/committee, and to maintain all records related to their work. These are all public records, subject to the State record retention laws. The board/committee may designate an officer, such as the committee Secretary, to create and keep these documents.. Effective January 31, 2022, all minutes shall be published in BoardDocs where they will be made available to the public and preserved. The City Clerk's Office is the City department responsible for the retention of all City board and committee meeting records. These records include, but are not limited to agendas, minutes, and meeting packet material (such as attachments, presentations, documents, and reports). These materials are posted on the City's website and are kept on file in the City Clerk's Office for public access and retention purposes. Effective January 31, 2022, all board/committee meeting packet material shall be published through BoardDocs.

As part of the winding up of the business of an ad-hoc committee that has completed its service to the City, all committee materials from individual members and the committee generally are to be forwarded to the City Clerk's Office or published via BoardDocs so that the Clerk's Office will have the materials available upon request.

Section 8. Board/Committee Use of Email.

(a) Retention of emails. To the extent that board/committee members use email to communicate about City business, all emails are public records, subject to the State record retention laws, no matter what account (personal, office, City) is used and not matter what device is used.

(b) Use of City email accounts. If a board/committee requests use of a City email account for City business, absent special circumstances, the IT Director shall obtain a license for one City email address for the board/committee (*e.g.*, conservation@southportland.org). The board/committee's City email address will be managed by the City staff liaison to the board/committee, and communications from members can be sent to the City email, and the City staff liaison will be responsible for sending those communications out to the whole committee or on behalf of the committee. To the extent that board/committee members use private email for communications related to City business, a "cc" of each email sent or received relating to City business shall be sent to the email address for the board/committee Inbox.

(c) Use of Email for Communication with Fellow Board/Committee Members. Board/committee members shall avoid the use of electronic communication for deliberation, discussion or voting on matters properly confined to public meetings. Email should only be used for non-substantive matters such as scheduling meetings, dissemination of information and reports, and developing agendas for future meetings. It is not permissible for board/committee members to deliberate, discuss policy, make decisions, approve meeting minutes, or otherwise take action through email, telephone, text or other means outside of a properly noticed public meeting.

(d) Quasi-judicial matters. Email or other forms of electronic communication shall not be used for any deliberation or discussion related to quasi-judicial matters (*e.g.*, license and permit applications, land use applications, administrative appeals, variance applications, tax abatement appeals). In the event a board/committee member receives an email or other communication related to a quasi-judicial matter, the board/committee member should (a) advise the sender by return email that he or she cannot comment outside a public meeting on the pending matter before the board/committee and that the sender's email is being forwarded to the board/committee City staff liaison for inclusion in the public record on the matter; (b) immediately forward the email or other communication to the board/committee City staff liaison for inclusion in the public record of the matter; and (c) disclose on the record in the public hearing or meeting on the matter that the email or other communication has been received and is in the record.

Section 9. Statements on Behalf of the Board/Committee.

No member of a board/committee shall represent to anyone or knowingly allow anyone to infer that he/she/they speaks on behalf of the full board/committee unless that member has been officially designated to speak by act of the board/committee taken at a duly noticed public meeting.

Section 10. Use of the City's Website by Boards/Committees.

The purpose of the City's website is to inform and provide the public with efficient and transparent access to City services, activities, programs and policies that affect its residents, taxpayers and guests. The City's website (www.southportland.org) will remain the City's primary and predominant Internet presence. The City's website and the links that it contains are not

intended to perform as a public forum or blog. Any board/committee-specific web page should be focused and limited in scope and topic to the regular business of the board/committee and should complement rather than supplant the City's main or existing web resources. "Regular business" is defined as the standard and routine activity of any Committee, and generally includes agendas, minutes, event notifications, presentation documents and backup items created during the course of regular board/committee proceedings. This may also include responses or clarifications of items of fact related to the Committee (dates, times, published data, etc.). All board/committee-specific web page content shall be provided to the City Clerk's Office for inclusion on the City's website. The City Clerk is authorized to moderate board/committee-specific web page requested content prior to posting. No elected official, appointed official, board or committee may establish any website identity, domain, account, page, or site in the name of or on behalf of the City or any board or committee separate or apart from the City website that is managed by City staff.

Section 11. Use of Social Media by Boards/Committees.

The City has an overriding interest and expectation in deciding what is "spoken" on behalf of the City on Social Media sites. No elected official, appointed official, board or committee may establish any Social Media identity, account, profile, page, or site in the name of or on behalf of the City or any board or committee except in compliance with the City's Use of Social Media Policy.

Section 12. Subcommittees.

Unless otherwise provided by State law, City ordinance or Council order, the City's policy on subcommittees is as follows:

- (a) Definition of a Subcommittee. A subcommittee is a subunit of a City board or committee established for the purpose of dividing the board/committee's workload. Recommendations of a subcommittee must be approved by the full board/committee before being reported to the City Council. Subcommittees serve at the will of the board/committee and have no independent authority.
- (b) Creation of a Subcommittee. Before a board/committee may create a subcommittee, it shall in writing:
 - (i) Define the purpose of the subcommittee;
 - (ii) Define the scope of the subcommittee's work;
 - (iii) Determine the subcommittee's voting membership and any *ex-officio*, non-voting members;
 - (iv) Provide a time frame for the subcommittee's work;
 - (v) Establish a plan to comply with public meeting and public record retention legal requirements; and
 - (vi) Submit this written plan to the City Clerk's Office, which, in turn, will provide a copy to the City Council for its information (but not its approval).

If a subcommittee is to include non-board/committee members, those non-board/committee members shall be *ex-officio*, non-voting members. Any *ex-officio*, non-voting subcommittee members shall complete the required FOAA training set forth in Section 4 above within 1 month of joining the subcommittee. *Ex-officio*, non-voting subcommittee members serve for a term of one year from the date they are sworn in by the City Clerk.

(c) Work of a Subcommittee. The work of a subcommittee shall consist solely of matters that have had prior review and referral to the respective subcommittee by a vote of the full board/committee or action taken by the subcommittee that has been subsequently ratified by the full board/committee.

(d) Public meeting notice required. All subcommittee meetings of the City of South Portland must be open to the public, and meetings must be preceded by public notice in compliance with public meeting notice requirements as provided in Section 5 above. Subcommittee meetings must be scheduled in conjunction with the board/committee's City staff liaison and every effort shall be made to schedule the subcommittee meetings to allow for attendance of the City staff liaison or his/her/their designee. Effective January 31, 2022, any subcommittee public meeting notice shall be published through BoardDocs.

(e) Retention of records required. Effective January 31, 2022, all documents, drafts, agendas, minutes, and materials relating to the subcommittee must be published through BoardDocs as provided in Section 7 above.

(f) Minutes of subcommittee meeting required. Subcommittees are required to, and are responsible for, recording minutes that capture the date, time, place of meeting; record of who was present or absent of the members of the board/committee; and a record of all motions made and votes taken (and who made what motion) by the board/committee. The audio or video recording required under subsection (g) below does not serve as the board/committee meeting minutes.

(g) Recording of Meetings. Subcommittee meetings shall be recorded by audio or video recording technology, and the subcommittee shall make the recording of the meeting electronically available to the City staff liaison and for public access as soon as practicable after the meeting.

Section 13. Compliance with Policy

This Policy is intended to be self-enforcing and is an expression of the standards of conduct for members of boards/committees expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. The City Council does not waive the right to address any violations in the manner it deems appropriate under the specific circumstances.

Date of Adoption: April 27, 2021

Date amended: December 28, 2021

**City of South Portland
Remote and Hybrid Meeting Policy**

Section 1. Purpose.

This Policy is adopted pursuant to 1 M.R.S. § 403-B, as may be amended, in order to provide a written policy to govern the use of remote means for public meetings by the City of South Portland. The conduct of remote and hybrid meetings by the City Council and remote participation in City Council meetings shall be governed by this Policy.

Section 2. Definitions.

Board means any City board, committee, or commission whose entire membership has been appointed by the City Council, without regard to whether it is a standing or an *ad hoc* board, committee, or commission, including any subcommittee of the board, committee, or commission.

City Council means the duly elected municipal officers of the City.

Hybrid meeting means a public proceeding, as defined in 1 M.R.S. § 402(2), as may be amended, conducted with some meeting attendees in person/face-to-face at a designated physical location while connecting with other meeting attendees by remote means.

Public meeting means a “public proceeding,” as that term is defined in 1 M.R.S. § 402(2), as may be amended.

Remote means means “remote methods” as defined in 1 M.R.S. § 403-B(1), as may be amended, and includes any form of audio and visual conference technology, or audio conference technology, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and Councilors/board members. Remote means does not include text-only means such as e-mail, text messages, or chat functions.

Remote meeting means a public proceeding, as defined in 1 M.R.S. § 402(2), conducted solely by remote means.

Section 3. Use of Remote Means for Public Meetings.

(a) Types of Meetings and Participation Allowed.

- (1) **Remote Meetings of the City Council:** The City Council shall conduct its meetings in person unless the Mayor (or in his/her/their absence, the City Manager), in consultation with the City Clerk, makes a determination that an emergency or urgent issue exists that requires the City Council to conduct a remote meeting, including, but

not limited to, inclement weather and/or disasters or catastrophes caused by either natural or man-made causes. The determination of such an emergency or urgent issue shall be made as soon as practicable, and notice of a meeting being conducted solely by remote means shall be disseminated consistent with 1 M.R.S. § 406, as may be amended, and this Policy.

- (2) **Hybrid Meetings with Remote Participation by Individual City Councilors:** Except for a remote meeting being conducted consistent with Section 3(a)(1) of this Policy, City Councilors are expected to be physically present for all public meetings except when being physically present is not practicable for one or more Councilors. Circumstances under which physical presence for one or more Councilors is not practicable are limited to:
- a. Illness or other physical condition, or temporary absence from the City of South Portland, that causes the Councilor to face significant difficulties travelling to and attending the public meeting in person; or
 - b. To provide a reasonable accommodation to a Councilor with a disability.

A Councilor who believes it is not practicable, as set forth above, for him/her/them to attend a meeting in person shall notify the Mayor (or in his/her/their absence, the City Manager), as well as the City Clerk, of the existence of such circumstances as far in advance as is possible. If the agenda has already been posted at the time the notice is made, an amended meeting agenda containing the information set forth in Section 3(b) of this Policy shall be posted on the City's website and be distributed to all Councilors, relevant City staff, and local representatives of the media by the same or faster means used to notify Councilors at least four (4) hours prior to the originally noticed meeting start time.

- (3) **Hybrid Meetings with No Remote Participation by Individual City Councilors:** The City Council is not required by law to offer this type of meeting format but will endeavor to conduct a hybrid meeting, even when there is no remote participation by individual City Councilors, as often as practicable when the City Council meets in Council Chambers at City Hall.

- (b) Notice. Notice of a remote meeting or hybrid meeting must be provided in accordance with 1 M.R.S. § 406 and applicable City ordinances, policies and practices and shall inform members of the public how to contemporaneously:
- (1) Remotely view the video and audio of the meeting through internet streaming or other means;
 - (2) Provide remote oral testimony in a manner that allows Councilors and other meeting participants to hear the testimony, whether through an internet link, a telephone conference, or other means;
 - (3) Obtain copies of packet materials; and
 - (4) If a hybrid meeting, list the specific location of the public meeting site at which members of the public may attend in person and where at least some of the Councilors will be present in person.
- (c) Remote Meeting and Hybrid Meeting Requirements. Any remote meeting or hybrid meeting must comply with the following:
- (1) The remote means used by the City Council must allow all members of the public participating in the meeting to hear, or see and hear, all City Councilors and any other speaker;
 - (2) Each member of the City Council who is participating in the meeting must be able to hear and speak to all other Councilors and must be heard by the members of the public attending and observing the meeting during the meeting;
 - (3) Except as provided in subsection (6) or Section 3(d) or (e), a quorum of Councilors shall be visible and audible to other Councilors and the public during the meeting; provided that so long as a quorum of Councilors is visible, no other meeting participants shall be required to be visible during the meeting;
 - (4) Any Councilor participating in a meeting by remote means shall be considered present at the meeting for the purpose of determining compliance with the quorum and voting requirements of the City Council;
 - (5) At the start of the meeting, the Mayor shall announce the names of any Councilors participating by remote means and state the reason therefor, which reason must be consistent with Section 3(a)(2) of this Policy;
 - (6) For audio-only teleconferencing, each speaker should repeat his/her/their name before making remarks;
 - (7) All Councilors shall refrain from electronic communications regarding subjects considered at the meeting during the meeting, except that Councilors may receive electronic copies of materials otherwise made available at the meeting;
 - (8) There should be a means for the Mayor or the remote means facilitator to be able to unmute and identify each speaker, to organize and summarize chat/Q&A messages from the public, and/or to read public comment into the record at the appropriate time during the meeting;
 - (9) All votes during the meeting shall be conducted by roll call (with each Councilor present stating “yes” or “no” as each name is called) so that it is clear how each Councilor voted;
 - (10) All hybrid meetings shall be conducted in Council Chambers at City Hall unless an alternative location is authorized by the Director of SPC-TV or his/her/their designee; and

- (11) All remote and hybrid meetings shall be recorded by audio or video recording technology, and the City Council shall make the recording of the meeting electronically available to the City staff liaison and for public access as soon as practicable after the meeting.
- (d) Disruptions and adjournment. If during the conduct of a remote or hybrid meeting, the meeting is interrupted through disruptions or glitches in the technology, the meeting shall be automatically recessed for up to 15 minutes to restore communication when audio-visual communication cannot be maintained with a quorum of Councilors. If the interruption cannot be resolved within 15 minutes, and the City Council has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically adjourned. If the meeting being conducted is a hybrid meeting with no remote participation by individual City Councilors and a remote connection to the public location identified in the City Council's notice pursuant to Section 3(b)(4) of this Policy is interrupted or lost, the meeting shall continue at the public location without the need for a recess or adjournment.
- (e) Executive sessions. To preserve the executive session privilege of any portion of a meeting closed to the public, the Mayor or his/her/their designee should confirm with each attendee that no unauthorized person is present or has access to any executive session being conducted via remote means. There shall be no audio or visual recording of an executive session.
- (f) Remote means account. City accounts must be used for purposes of all remote meetings and hybrid meetings conducted by the City Council and must be coordinated through the SPC-TV Director or his/her/their designee. The use of private accounts to host a remote meeting is prohibited.

Section 4. Other City Boards and Committees.

Any board, as defined herein, may adopt this Policy in order to comply with 1 M.R.S. § 403-B, with the name of the board being substituted for that of the City Council. Any board adopting such a remote and hybrid meeting policy under this section must, after hearing on the same, file written notice of the vote with the City Clerk upon adoption. Any such board may also choose to set more stringent regulations for the use of remote means, provided that said policy is at least as stringent as this Policy and complies with 1 M.R.S. § 403-B. Such enhanced policy must also, after hearing on the same, be approved by a vote of a majority of the members of said board, and a copy of said enhanced policy must be filed with the City Clerk upon adoption.

This Policy shall also apply to any board that does not adopt a written remote and hybrid meeting policy as set forth herein. For any board that does not adopt a written remote and hybrid meeting policy, unless the context dictates otherwise, references in the Policy to the City Council shall mean the board; references to a City Councilor or City Councilors shall mean a board member or board members; and references to the Mayor shall mean the Chair of the board.

Section 5. Compliance with Policy.

This Policy is intended to be self-enforcing and is an expression of the standards of conduct for City Councilors and members of boards/committees expected by the City. It therefore becomes most effective when Councilors and board members are thoroughly familiar with it and embrace its provisions. The City Council does not waive the right to address any violations in the manner it deems appropriate under the specific circumstances.

Date of Adoption: April 27, 2021
Amended: July 27, 2021
August 16, 2022

**CITY OF SOUTH PORTLAND
CITY USE OF SOCIAL MEDIA POLICY**

I. Purpose

The City has an overriding interest and expectation in deciding what is “spoken” on behalf of the City on Social Media sites. This Policy establishes guidelines for the establishment and use of Social Media by the City. It is the intent of the City to use Social Media Sites for conveying information about the City and its events and activities to its residents, taxpayers and guests. Any comments section of a City Social Media Site is intended to be a designated or limited public forum, to serve as a mechanism for communication between the City, its Departments and/or Committees, and members of the public with respect to the City’s mission, services and the transaction of City business. City Social Media Sites are moderated by City staff as described herein.

Nothing in this Policy shall be applied to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under the State or federal Constitutions as well as labor laws or other applicable laws.

II. Definitions

For purposes of this Policy, the following definitions shall apply:

“City Social Media Sites/Accounts” means those pages, sections or posting locations in Social Media websites established, managed or maintained by the City.

“Comment” or “Comments” mean and include any information, articles, words, pictures, videos or any other form of communicative content posted on a City Social Media Site.

“Committee” means any City board, committee, or commission whose membership has been appointed by the City Council, without regard to whether it is a standing or an *ad hoc* board, committee, or commission.

“Department” means any City department other than the School Department.

“Policy” means this City Use of Social Media Policy.

“Social Media” is understood to be content created by individuals, using accessible, expandable, and upgradable publishing technologies, through and on the Internet. Examples of social media include Facebook, Twitter, Google Plus, YouTube, Pinterest, LinkedIn, and Instagram.

“Social Media Administrator” means the City employee or employees expressly designated by the City Manager to monitor, manage, supervise or control the City Social Media Sites as provided in this Policy.

III. General Policy

1. The City's website (www.southportland.org) will remain the City's primary and predominant Internet presence.
 - (a) The best, most appropriate City uses of Social Media tools fall generally into two categories:
 - (i) As channels for disseminating time-sensitive information as quickly as possible (for example, emergency information).
 - (ii) As marketing/promotional channels that increase the City's ability to broadcast its messages to the widest possible audience.
 - (b) Wherever possible, content posted to City Social Media Accounts will also be available on the City's main website.
 - (c) Wherever possible, content posted to City Social Media Accounts should contain links directing users back to the City's official website for in-depth information, forms, documents or online services necessary to conduct business with the City.
2. The City will approach the use of Social Media tools as consistently as possible, enterprise-wide.
3. No City employee, elected official, appointed official, contractor, Department, or Committee may establish any Social Media identity, account, profile, page, or site in the name of or on behalf of the City or any Department or Committee unless the City Manager, the IT Director, the Social Media Administrator, and the appropriate Department Head, if applicable, have all approved the account pursuant to Section VI below. This requirement applies regardless of whether the account is established, accessed, or used by means of City information systems or by means of the employee's or others' information systems, and regardless of whether the account is established, accessed, or used from City or non-City premises.
4. All City Social Media Accounts shall comply with all appropriate City policies and standards, including, but not limited to, the City's Personnel Policy and Information Systems Acceptable Use Agreement.
5. City Social Media Accounts are subject to Maine's public records disclosure law, the Freedom of Access Act ("Right-to-Know" law), 1 M.R.S. § 401 *et seq.*, as may be amended. Any content maintained in a Social Media format that is related to City business is a public record. The Department or Committee maintaining the account is responsible for responding completely and accurately to any public records request for public records on Social Media, with assistance, if necessary, from the City's Public Access Officer. Content related to City business shall be maintained in an accessible format and so that it can be produced in response to a request. Wherever possible, such accounts shall clearly indicate that any articles and any other content posted or submitted for posting are subject to public disclosure. Users shall be notified that public disclosure requests must be directed to the relevant Department Head or the Public Access Officer.

6. Maine's record retention law, 5 M.R.S. § 95-B, as may be amended, and relevant record retention schedules apply to Social Media formats and Social Media content. The Department or Committee maintaining an account shall preserve records required to be maintained pursuant to a relevant records retention schedule for the required retention period on a City server in a format that preserves the integrity of the original record and is easily accessible. All social media sites are required to be linked to City Clerk's archiving service for public records retention.
7. Administration of City Social Media Accounts.
 - (a) IT Department staff will maintain a list of Social Media tools that are approved for use by Departments and Committees. All new Social Media tools proposed for City use must be approved by the City Manager, the IT Director, the Social Media Administrator, and the appropriate Department Head, if applicable.
 - (b) No City employee, elected official, appointed official, contractor, Department, or Committee may establish any Social Media identity, account, profile, page, or site in the name of or on behalf of the City or any Department or Committee unless the City Manager, the IT Director, the Social Media Administrator, and the appropriate Department Head, if applicable, have all approved the account pursuant to Section VI below.
 - (c) IT Department staff will maintain a list of all City Social Media Accounts. Department Heads and Committees must submit to the IT Director and the Social Media Administrator a list of all Social Media Accounts maintained by the Department, including the following information: (1) the name, hosting site and Internet address and date of inception for the account, and a statement of the purpose and scope of the Department's or the Committee's use of the account; (2) all user names, passwords, and other log-in credentials for the account; (3) all authorized Social Media users for the Department or the Committee that have access to and/or responsibility for the account; and (4) the administrative contacts and contact information for the account. The Department Head or the Committee must promptly notify the IT Director and the Social Media Administrator of any changes in any of the foregoing, and of any new Department or Committee Social Media Accounts or pages and any termination of accounts or pages.
 - (d) Department Heads and Committees shall ensure that all approved Social Media Accounts and Social Media content are periodically reviewed for compliance with this Policy. Department Heads and Committees are responsible for all Social Media content created, received, transmitted, stored, deleted, destroyed, and/or printed in the name of or on behalf of the City, Department or Committee.
 - (e) The City must be able to immediately edit or remove content from City Social Media Accounts.
 - (f) The City Manager, IT Director, Social Media Administrator, Human Resources Director and Department Heads may monitor content on each of the Social Media Accounts to ensure adherence to this Policy for appropriate use, message and branding consistent with the goals of City.
 - (g) Violation of these standards may result in the removal of pages from Social Media Accounts. The IT Director and the Social Media Administrator retain the authority to remove information that is deemed in violation of this Policy or any applicable law.

- (h) If a decision is made to deactivate a Social Media Site/Account, because it is no longer of use, or accomplishing the goals of the City or Department or Committee, or otherwise does not comply with this Policy, the following actions shall occur:
- Confirm all public records management to preserve content related to the site/account has occurred;
 - Set a time-line for deactivating the site;
 - Develop a “sign-off” message to post on the site that includes when the site shall be closed and a “sign-off” message to post during the final days/weeks;
 - Confirm to the IT Director and the Social Media Administrator once the site has been deactivated that the site is completely deactivated; and
 - Determine whether to protect the site name by keeping it active to prevent use of the City’s name for improper purposes and upon a determination that it is necessary to protect the site name, take all necessary action to do so.

8. The City Manager, IT Director and Social Media Administrator shall implement this Policy, and broadly disseminate the Policy to inform employees and officials of these guidelines for creating, using and maintaining Social Media resources subject to this Policy and to ensure that all City employees and officials confirm they are aware of and understand this Policy.

IV. Comment Policy

1. As a public entity, the City must abide by certain standards to serve all its constituents in a civil and unbiased manner.
2. Users and visitors to City Social Media Sites shall be notified that the intended purpose of the account is to serve as a mechanism for communication between City employees/officials and members of the public with respect to the City’s mission, services and the transaction of City business. City Social Media Site Comments containing any of the following forms of content shall not be allowed:
 - (a) Comments not related to the business of the City (or the specific Department or Committee, if a Department-specific or Committee-specific Site), or not topically related to the particular social media article being commented upon;
 - (b) Profane, obscene or pornographic language and/or content;
 - (c) Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, national origin, physical or mental disability, sexual orientation or any other status protected by law;
 - (d) Confidential or personally identifiable information in violation of State or federal law;
 - (e) Solicitations of commerce;
 - (f) Conduct or encouragement of illegal activity;
 - (g) Information that may tend to compromise the safety or security of the public or public systems; or
 - (h) Content that violates a legal ownership interest, such as a copyright, of any other party.

These guidelines must be displayed to users or made available by hyperlink. Any content removed based on these guidelines must be retained, including the time, date and identity of the poster when available.

3. A Comment posted by a member of the public on any City Social Media Site is the opinion of the commentator or poster only, and publication of a Comment does not imply endorsement of -- or agreement by -- the City, nor do such Comments necessarily reflect the opinions or policies of the City.
4. The City reserves the right, at any time and without prior notice, to deny access to City Social Media Sites to any individual who violates this Policy.
5. The Social Media Administrator, Departments and Committees shall monitor their Social Media Sites for Comments requesting responses from the City and for Comments in violation of this Policy.
6. When a City employee responds to a Comment, in his/her capacity as a City employee, the employee's name and title should be made available, and the employee shall not share personal information about themselves, or other City employees.
7. Each type of Social Media maintains a "Terms of Use" agreement. All Comments posted to any City Social Media Site are bound by these Terms of Use, and the City reserves the right to report any user violation with the intent of allowing that Social Media company to take appropriate and reasonable responsive action.

V. Reporting/Removal of Unauthorized Comments

1. The City requires that Department-designated Social Media Administrators immediately notify the Social Media Administrator if there is any posted material that may be inappropriate, that violates this Policy, or any City policy, is illegal, or that potentially infringes the copyrights or other rights of any persons. The Social Media Administrator will investigate and respond to all reports of potential violations of this Policy. The Social Media Administrator is authorized to remove (or to cause to be removed) unauthorized Comments or links posted on City Social Media Sites that do not conform with the requirements of this Policy in a viewpoint neutral manner.
2. Any content removed based on these guidelines must be retained by the sponsoring Department or Committee for a reasonable period of time, including the time, date and identity of the poster, when available. When the City determines to remove Content of a person who is not an employee and who was not acting on behalf of the City, the Social Media Administrator must endeavor to contact the person promptly to notify them that their response has been deemed inappropriate and removed due to inconsistency with the Policy. The person may appeal the decision under Section V(3) (Right to Appeal Removal of Comments or Application of this Policy to the Public). When Content is removed because it is a potential security breach or may contain a virus, the notice under this section is not required, but the person responsible for the

post may appeal the decision under Section V(3) (Right to Appeal Removal of Comments or Application of this Policy to the Public).

3. Right to Appeal Removal of Comments or Application of this Policy to the Public.
 - (a) When a Comment has been removed, anyone aggrieved other than an employee as provided in subsection (c) below may seek to have the Social Media Administrator reconsider the decision to edit or remove a Comment by providing the Social Media Administrator with a written request stating the reason or reasons why the Comment does not fall within the limitations established in this Policy or offer other bases to establish a right to publish the Comment or other communication on the City Social Media Site. The Social Media Administrator or other appropriate official must render a written decision on the request within one business day (excluding official City holidays) of receipt of the request noting the basis for the decision. The decision of the Social Media Administrator or other appropriate official shall be the final decision of the City.
 - (b) When a person other than a City employee as provided in subsection (c) below believes this Policy violates his/her/their rights in ways other than as set out in subsection (a) above, that person may seek to have the Social Media Administrator review all or part of the Policy as applicable to that person by providing the Social Media Administrator with a written request stating the reason or reasons why the Policy violates the person's rights. The Social Media Administrator must render a written decision on the request within 5 business days (excluding official City holidays) of receipt and give the bases for the decision. For good cause, the Social Media Administrator may extend the time for rendering a decision by 5 additional business days. The decision of the Social Media Administrator shall be the final decision of the City.
 - (c) The rights to appeal created in this Section V(3) do not apply to a City employee when the employee is acting in an official capacity or as a representative of the City and may only apply when the employee is acting in the employee's personal capacity as a private party and when exercising the rights accorded a person under the Constitution and the laws of the United States. An employee who feels aggrieved by any action under this Policy not covered by this Section V(3) should seek review through established grievance procedures, if applicable, or through the employee's chain of command.

VI. Procedure for Requesting and Maintaining Social Media Sites/Accounts for Departments and Committees

1. Departments. A Department may seek to develop its own Social Media Account specific to its needs. Department-specific Social Media Sites should be focused and limited in scope and topic and should complement rather than supplant the official City Social Media Site or existing web resources. General departmental pages and associated content should be included and managed within the current City Social Media Site. On a case-by-case basis, the Social Media Administrator must review and recommend approval or denial of all requests for developing Department-specific City Social Media Sites, as follows:

(a) The Department shall submit a request in writing on a form provided by the Social Media Administrator. The request shall state:

- (i) How or in what respect there is a clear benefit of specific stakeholder outreach that is not already met by the City's Social Media Site;
 - (ii) How the Department has developed an effective strategy to develop and maintain the site/account;
 - (iii) How the content contained on the Department-specific Social Media Site will be captured and retained in accordance with applicable Freedom of Access Act and public record retention requirements;
 - (iv) How the Department will ensure that authorized Social Media Account users review, be familiar with, and comply with the Social Media Site's use policies and terms and conditions.
- (b) The Social Media Administrator will be the coordinating authority for review and monitoring and enforcement of any approved City Social Media Sites. The City Manager shall be the final decision-making authority for the approval or denial of any Social Media Sites and the use of such sites by the City.
- (c) If approved, Departmental authorized users of the Social Media Account shall be provided a copy of this Policy and are required to acknowledge their understanding and acceptance by signing and dating the last page of this Policy and returning the original to the Social Media Administrator.
- (d) All City Social Media Sites shall utilize authorized City contact information for account set-up, monitoring and access. The use of non-City email accounts or phone numbers is not allowed for the purpose of setting-up, monitoring, or accessing a City Social Media Site.
- (e) Once the site is developed, all usernames and passwords associated with the new site must be provided to the IT Director and the Social Media Administrator consistent with Section III(7) as well as to the Department Head. If/when the username and password is changed, the new information must be provided to all parties listed above.

2. Committees. Committees must comply with this Policy, and the City-assigned Departmental staff liaison to the Committee is responsible for ensuring that any request for Social Media tools or resources made by a Committee is coordinated with the Social Media Administrator and is acted upon.

(a) A Committee may seek to develop its own Site or Account specific to its needs subject to review and approval by the Social Media Administrator of appearance, general content and any vendor or third party that is to be used to assist in the development or operation of such site. Committee-specific Social Media Sites should be focused and limited in scope and topic and should complement rather than supplant the City Social Media Site or existing web resources. General Committee pages and associated Content should be included and managed within the current City Social Media Site. On a case-by-case basis, the Social Media Administrator must review and recommend approval or denial of all requests for developing additional City Social Media Sites/Accounts, as set forth herein. The Committee shall submit a request in writing on a form provided by the Social Media Administrator. The request shall state:

- (i) How or in what respect there is a clear benefit of specific stakeholder outreach that is not already met by the City's Social Media Site;

- (ii) How the Committee has developed an effective strategy to develop and maintain the site/account;
 - (iii) How the content contained on the Committee-specific Social Media Site will be captured and retained in accordance with applicable Freedom of Access Act and public record retention requirements; and
 - (iv) How the Committee will ensure that authorized Social Media Account users will review, be familiar with, and comply with the Social Media Site's use policies and terms and conditions.
- (b) The Social Media Administrator will be the coordinating authority for review and monitoring and enforcement of any approved City Social Media Sites. The City Manager shall be the final decision-making authority for the approval or denial of any Social Media Sites and the use of such sites by the City.
 - (c) If approved, Committee authorized users of the Social Media Account shall be provided a copy of this Policy and are required to acknowledge their understanding and acceptance by signing and dating the last page of this Policy and returning the original to the Social Media Administrator.
 - (d) All City Social Media Sites shall utilize authorized City contact information for account set-up, monitoring and access. The use of non-City email accounts or phone numbers is not allowed for the purpose of setting-up, monitoring, or accessing a City Social Media Site.
 - (e) Once the site is developed, all usernames and passwords associated with the new site must be provided to the IT Director and the Social Media Administrator consistent with Section III(7) as well as to the City-assigned Departmental staff liaison. If/when the username and password is changed, the new information must be provided to all parties listed above.
 - (f) Committees shall have a process for removing and re-assigning social media management duties when an appointed official ceases their service. Administrator privileges shall be revoked on the official's last day of service and immediately re-assigned to a new administrator.
 - (g) If a Committee Social Media Account has unauthorized activity, *i.e.*, is hacked, the authorized administrators should:
 - Immediately notify the IT Director.
 - Immediately try to regain access to the account.
 - Once access to the account is obtained, change the password.
 - Delete messages posted by hackers.
 - Let followers know that the account was hacked and what is being done to fix the issue.
 - Review third-party apps. These could be used by hackers to gain access to accounts.
 - (h) The Freedom of Access Act applies to use of Social Media by multiple members of a Committee and prohibits them from participating in postings or discussion threads on Social Media sites whether created and maintained by the Committee of which they are a member or otherwise. Members of Committees and their staff must comply with Maine law regarding public meetings, public records and record retention when using Social Media.

- (i) Any use of Social Media Sites shall not serve as a replacement for postings or notifications required by law.
- (j) Regular business of the Committee may be posted to an approved Social Media Sites by the appropriate staff liaison having that role without formal action of the Committee *provided that* posted documents are also available on the City’s website. In general, it is preferred that a Committee Social Media Site simply provide a link back to information and documents posted on the City website. “Regular business” is defined as the standard and routine activity of any Committee, and generally includes agendas, minutes, event notifications, presentation documents and backup items created during the course of regular Committee proceedings. This may also include responses or clarifications of items of fact related to the Committee (dates, times, published data, etc.).
- (k) Expression of the City’s official sentiments on City policy is reserved to the City Council. Committee-specific Social Media Sites should not be used to share opinions, to make statements of support/opposition to an issue or incident, or to sponsor the expression of a third party. A Committee may request that an item requesting approval of an opinion or a statement of support/opposition to an issue or incident be placed on a Council agenda pursuant to the procedures set forth in the City Council Standing Rules.

VII. Existing Social Media Accounts

The Social Media Administrator must review existing Departmental and Committee Social Media Sites or tools that have already been established as of April 27, 2021, the effective date of this Policy, to ensure that they follow this Policy. Within 60 days of the effective date of this Policy, the Social Media Administrator must recommend approval, amendment or denial of the existing Department and Committee Social Media Site or tools to the City Manager. The Department Head or Committee, as applicable, shall review the Social Media Site or tools and submit a written request for approval, or approval with amendments to the Social Media Site, to the City Manager. In the event the request is denied by the City Manager or the Department or Committee agrees to the discontinuation of the Social Media Site, the site or tool must be immediately taken down and its use discontinued as provided in Section III(7)(h) (regarding deactivating a Social Media Account).

VIII. Compliance with Policy

This Policy is intended to be self-enforcing and is an expression of the standards of conduct for Committee members and employees expected by the City. It therefore becomes most effective when Committee members and employees are thoroughly familiar with it and embrace its provisions. The City Council does not waive the right to address any violations in the manner it deems appropriate under the specific circumstances as relates to Committee members, and the City Manager does not waive the right to address any violations in the manner he/she/they deem appropriate under the specific circumstances as relates to employees.

Date: May 2013

Amended: April 27, 2021

[December 28, 2021](#)

**CITY OF SOUTH PORTLAND
CITY USE OF SOCIAL MEDIA POLICY**

This acknowledges that I have received and reviewed the City Use of Social Media Policy (“Policy”).

By signing this form, I agree to abide by the Policy and any guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding use of Social Media are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

Name (Print)

Signature

Date

**FREQUENTLY ASKED
FREEDOM OF ACCESS ACT (“FOAA”) QUESTIONS**
(updated through First Special Session of 130th Legislature)
City of South Portland
Updated as of October 13, 2021

QUESTION	ANSWER
PUBLIC RECORDS	
Does a municipality have to comply with a federal Freedom of Information Act request?	<ul style="list-style-type: none"> ●No. The Freedom of Information Act only applies to federal government agencies and officials. The applicable Maine statute is the Freedom of Access Act, also known as the “Right-to-Know” law.
Does a municipal department or official have to respond to a request for public records that such department or official does not maintain?	<ul style="list-style-type: none"> ●Yes. A 2015 statutory amendment requires that the department or official forward the request to the department or official that maintains the record, “without willful delay,” and notify the requester that the request has been forwarded and that the office to which the request was forwarded will acknowledge receipt within <u>5 working days</u> of the other office’s receipt of the request. 1 M.R.S. § 408-A(3).
Does a municipality have to acknowledge receipt of a FOAA request?	<ul style="list-style-type: none"> ●Yes. The law requires that the acknowledgement be within <u>5 working days</u> of the municipality’s receipt of the request. 1 M.R.S. §§ 408-A(3), 413(1).
Does a municipality have to produce the requested documents within 5 working days?	<ul style="list-style-type: none"> ●No, but if the municipality is going to refuse permission to inspect or copy records, the municipality must provide written notice of the denial, stating the reason for the denial or the expectation that the request will be denied in full or in part following a review, within <u>5 working days</u> of receipt of the request. 1 M.R.S. § 408-A(4). ●Compiling records by staff and the making of them available for inspection and copying to the requester may be scheduled to occur at a time that will not delay or inconvenience the regular activities of the agency or official having custody or control of the public records requested. 1 M.R.S. § 408-A(5).

PUBLIC RECORDS (cont.)	
Does a municipality have to provide the requester with an estimate of the research/compilation and copy charges before proceeding?	<ul style="list-style-type: none"> ● If the (non-binding) estimate of the total cost (research/compilation time plus copy charges) will exceed \$30, the municipality must inform the requester <u>before</u> proceeding. If the estimate of the total cost is more than \$100, the municipality may require prepayment. 1 M.R.S. § 408-A(9).
Does a municipality have to create records that do not exist?	<ul style="list-style-type: none"> ● No; repeat, no. 1 M.R.S. § 408-A(6).
Does a municipality have to answer written questions requesting information?	<ul style="list-style-type: none"> ● No, but if public records exist that answer the questions, the municipality should follow the procedures for making the responsive records available for inspection and copying. <i>See</i> 1 M.R.S. § 408-A, first sentence. ● Note that there may be a local Communications Policy that applies.
Does a municipality have to honor a “standing request” for public records, such as a request that certain reports be sent to a requester automatically each month?	<ul style="list-style-type: none"> ● No. A municipality is required to make available for inspection and copying (subject to any applicable exemptions) only those public records that exist on the date of the request. Persons seeking to inspect or obtain copies of public records on a continuing basis are required to make a new request for any additional records sought after the date of the original request.
Does a municipality have to provide the personal contact information of municipal employees or appointed officials?	<ul style="list-style-type: none"> ● No; indeed, the personal contact information (<i>i.e.</i>, home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number) of municipal employees and appointed officials it is not a “public record” and <u>must</u> be treated as confidential except when that information is public pursuant to other law. The personal contact information of elected officials <i>is</i> a public record. 1 M.R.S. § 402(3)(O).
Does a municipality have to respond to a request that it deems to be burdensome and oppressive?	<ul style="list-style-type: none"> ● No, but pursuant to a 2015 statutory amendment, only if the procedures set forth in 1 M.R.S. § 408-A(4-A) are followed, which involves filing a lawsuit requesting an order of protection in Superior Court for the county where the request for records was made within 30 days of receipt of the request. 1 M.R.S. § 408-A(4-A). <u>Practice pointer:</u> Best not to try to complete the specific, legally required procedural steps without first consulting with legal counsel.

PUBLIC RECORDS (cont.)

<p>How much can a municipality charge for copies and can a municipality charge for staff time spent retrieving records?</p>	<ul style="list-style-type: none"> ● Copy fees must be “reasonable.” 1 M.R.S. § 408-A(8)(A). A 2021 amendment defines this as no more than 10¢ per page for a standard 8 ½" by 11" black and white copy of a record. A per-page copy fee may not be charged for records provided electronically. ● A municipality may charge a fee that covers the costs of staff research/compilation time (\$25 per hour after 2 hours of staff time per request; first 2 hours are free). 1 M.R.S. § 408-A(8)(B). ● See below regarding pre-payment/estimates.
<p>Can a municipality require prepayment?</p>	<ul style="list-style-type: none"> ● Yes, if the estimated total cost exceeds \$100 <u>or</u> the requester has previously failed to pay a properly assessed fee under FOAA in a timely manner <u>or before the public record is provided to the requester</u> [2017 amendment]. 1 M.R.S. § 408-A(8)(F) & (10).
<p>Does an administrative board, committee or subcommittee have to keep minutes?</p>	<ul style="list-style-type: none"> ● Under FOAA, some sort of <u>record</u> of every public meeting <u>must</u> be made within a reasonable period of time after the meeting and must include: (1) the date, time and place of the public meeting; (2) the members of the body holding the public meeting recorded as either present or absent; and (3) all motions and votes taken, by individual member, if there is a roll call. 1 M.R.S. § 403(2). ● An audio, video or other electronic recording of a public meeting satisfies the requirements of the law. 1 M.R.S. § 403(3). Any recording is subject to record retention requirements. ● An advisory body that makes recommendations but that has no decision-making authority is exempt from this record of public meeting requirement, but is not otherwise exempt. 1 M.R.S. § 403(6). ● In South Portland, written minutes and an audio or video recording are required for every administrative board, committee or subcommittee meeting.
<p>How long does an aggrieved requester have to go to court?</p>	<ul style="list-style-type: none"> ● A requester has 30 calendar days to file suit in Superior Court. The municipality only has 14 calendar days of service of the appeal to respond to the court filing with a statement of position explaining the basis for its denial. Pursuant to a 2015 statutory amendment, the court will review the matter and take testimony and other evidence as determined necessary (there is no longer a trial <i>de novo</i>). 1 M.R.S. § 409.

PUBLIC MEETINGS	
Can e-mail or other electronic communications turn into a meeting?	<ul style="list-style-type: none"> • Yes, administrative board business must be conducted at a public meeting with public notice of the meeting; communications by telephone, e-mail, blog or otherwise that turn into a dialogue with other board members about substantive board matters violates the law.
Are e-mail, text messages and other electronic communications covered under FOAA?	<ul style="list-style-type: none"> • If it relates to City business, it is a “public record” with only limited exceptions. • Even if created, received, transmitted or maintained by a public official on privately owned equipment and communication devices, it still qualifies as a “public record.” • Before you push the “send” button, ask yourself whether you want the e-mail to be printed on the front page of the local newspaper. • Consider a disclaimer advising the public not to expect privacy.
Can a citizen tape record or videotape a public meeting?	<ul style="list-style-type: none"> • Yes, so long as the recording does not unreasonably interfere with the orderly conduct of the meeting. 1 M.R.S. § 404.
Can a board member participate in a meeting remotely by telephone, Zoom or other remote means?	<ul style="list-style-type: none"> • Only if the board has adopted (after notice and a public hearing) a written policy on the same that complies with 1 M.R.S. § 403-B. <i>See</i> P.L. 2021, ch. 290.
Is a joint executive session of the municipal officers and an appointed board in order to consult with legal counsel permissible?	<ul style="list-style-type: none"> • Yes; a Maine Supreme Court decision upheld a joint Selectmen/Planning Board executive session to discuss the potential ramifications of a moratorium ordinance with legal counsel. <i>Hughes Bros., Inc. v. Town of Eddington</i>, 2016 ME 13, 130 A.3d 978. Legal counsel must be present.
GENERAL	
Who is required to complete FOAA training? When?	<p>Municipal officials who must complete training include municipal officers, clerks, treasurers, <u>managers or administrators</u>, <u>code enforcement officers</u>, assessors and <u>deputies for those positions</u>; <u>planning board members</u> and budget committee members; public access officers. It must be completed no later than the 120th day after the date the official assumes the person’s duties as an official or the person is designated as a public access officer. (Underlined officials are new per a 2021 amendment, <i>see</i> P.L. 2021, ch. 313.)</p>

CERTIFICATION OF COMPLETION OF
FREEDOM OF ACCESS TRAINING REQUIRED BY 1 M.R.S.A. § 412

I, _____, hereby certify that I have met the training
(Name of elected official)

requirements set forth in 1 M.R.S.A. § 412 on _____ by
(date of training)

completing the following training:

- A thorough review of all of the information made available on the Frequently Asked Questions portion of the State website, www.maine.gov/foaa/faq.

- Another training course that includes this information, identified as follows:

(Title of Course)

(Name of Course Provider)

Dated this _____ day of _____, 20_____.

Signature

Printed Name

Elected Office

Note: Training must be completed within 120 days after an elected official takes the oath of office.